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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,987	04/16/2004	Najib Khan Surattee	2000 P 20688 US	8727
48154	7590	07/10/2006	EXAMINER	
SLATER & MATSIL LLP 17950 PRESTON ROAD SUITE 1000 DALLAS, TX 75252			GEHMAN, BRYON P	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 07/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/825,987	SURATTEE ET AL.
	Examiner	Art Unit
	Bryon P. Gehman	3728

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 June 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 3-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1 and 3-20 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/16/04, 6/26/06</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

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1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed inner bag of claims 9-14 and 17-18 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claims 1, 3-8 and 15-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 2 and 6-7, "a side wall" is indefinite, as "side walls" have been previously defined. The phrase should be --one of said side walls-- or something similar.

In claim 15, line 15, "moisture indicator level" should be --moisture level indicator--.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 9 and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Duncan (5,293,996). Disclosed is a bag comprising first and second side walls (top and bottom sheets) attached at three edges (21-23), a portion of the first wall comprising transparent material (15), a moisture indicating material (16) mounted within the bag adjacent the transparent material, a porous inner bag (13) and a desiccant material (31) located in the porous bag.

As to claims 11 and 12, see column 2, lines 49-62.

As to claim 13, see column 2, lines 4-24.

As to claim 14, see column 1, lines 7-26.

6. Claims 15 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams et al. (5,224,373). Disclosed is a bag comprising first and second side walls (see column 6, lines 19-23) attached at three edges (see Figure 1), a portion of the first wall comprising transparent material (13), and three moisture level indicators (three of 16-19).

As to claims 19 and 20, see column 4, line 54 through column 5, line 18.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 and 3-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neteler (6,531,197) in view of Duncan. Claims 1 and 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neteler (6,531,197) in view of Williams et al.. Neteler discloses a bag (10) comprising side walls substantially impervious to moisture and having an opening (14) at one end, wherein the side walls of the bag comprise a desiccant material (see column 3, lines 28-57). which defines at least a portion of the inner surface of each side wall. Duncan and Williams et al. each disclose a moisture impervious bag (10; C) including a substantially transparent material (15; 13) substantially impervious to moisture and a moisture indicating material (16; 12) mounted

within the bag adjacent to the transparent material. To modify the bag of Neteler employing the moisture indicator structure of either one of Duncan and Williams et al. would have been obvious in order to provide an observer with visual indication of the moisture condition of the interior of the bag.

As to claim 3, Neteler discloses silica as the desiccant material, and official notice is taken that silica gel has long been recognized as a desiccating material used in packaging.

As to claims 4 and 5, see column 2, lines 49-62 of Neteler.

As to claim 6, Duncan and Williams et al. each disclose the transparent material as a moisture barrier film.

As to claims 7 and 8, Neteler discloses the bag being for an electronic device (see column 1, lines 16-20).

As to claim 8, Duncan discloses semiconductor devices (column 1, lines 11-26).

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duncan. Duncan employs a desiccant material, silica gel being officially noted to an old and well-known desiccant material commonly used in desiccant packaging.

10. Claims 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carboneau (5,791,485) in view of Duncan. Claims 9-13 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carboneau in view of Williams et al.. Carboneau discloses a bag (10) comprising side walls substantially impervious to

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moisture and having an opening (at 43) at one end, wherein the side walls of the bag comprise a desiccant material disposed in an inner porous bag (20). Duncan and Williams et al. each disclose a moisture impervious bag (10; C) including a substantially transparent material (15; 13) substantially impervious to moisture and a moisture indicating material (16; 12) mounted within the bag adjacent to the transparent material. To modify the bag of Carboneau employing the moisture indicator structure of either one of Duncan and Williams et al. would have been obvious in order to provide an observer with visual indication of the moisture condition of the interior of the bag.

As to claims 10 and 18, official notice is taken that silica gel has long been recognized as a desiccating material used in packaging.

As to claims 11 and 12, see column 3, lines 63 through column 4, line 50 of Carboneau.

As to claim 13, Duncan and Williams et al. each disclose the transparent material as a moisture barrier film.

As to claim 14, Duncan discloses semiconductor devices (column 1, lines 11-26).

11. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. in view of Hu et al. (3,768,976). Hu et al. discloses an indicator including word directions to instruct a user what to do by the indication. To modify the numerical indication of Williams et al. employing word direction as taught by Hu et al. would have been obvious in order to instruct a user what to do. Where the only difference between a prior art product and a claimed product is printed matter that is not functionally related

to the product, the content of the printed matter will not distinguish the claimed product from the prior art. *In re Ngai*, 367 F.3d 1336, 1339, 70 USPQ2d 1862, 1864 (Fed. Cir. 2004).

12. This application contains claims directed to the following patentably distinct species: I) desiccant as an internal portion of the bag wall and II) desiccant provided in an inner bag. The species are independent or distinct because applicant claims them separately and it is not seen that the two constructions are obvious variants of one another.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no allowable claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

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13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lassiter discloses an indicator of increasing indicia. Garrill et al. disclose a windowed desiccant container.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Byron P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday and Friday from 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BPG



Byron P. Gehman
Primary Examiner
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